

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES GRZESLO,

Plaintiff,

v.

B. SAUZO,

Defendant.

1:21-cv-01371-JLT-EPG (PC)

ORDER DENYING PLAINTIFF'S
MOTION TO REMOVE ATTORNEY
LAWRENCE BRAGG FROM CASE AND
TO STAY CASE

(ECF No. 53)

Plaintiff James Grzelso is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's First Amendment claim against Defendant Suazo.

Generally, Plaintiff's motion seeks (1) an order removing Attorney Lawrence Bragg from this case for allegedly engaging in ex parte communications and (2) an order staying this case while criminal charges are pursued against Defendant B. Sauzo.

As to the first request, the Court has previously denied two similar motions, finding no evidence of any improper ex parte communications by defense counsel in this case. (ECF Nos. 49, 51). Further, the Court noted in its latest order that "any future summary and unsupported motions or objections concerning ex parte communications . . . will be summarily denied." (ECF No. 51, p. 2 n.2). This latest request fits this description. Moreover, the Court notes that, on March 17, 2023, three days before Plaintiff filed this motion, a different attorney, Attorney Molly

1 Christ, was noticed to represent Defendant, and Attorney Bragg is no longer representing
2 Defendant in this case. (ECF No. 52). Thus, Plaintiff's request is also moot.

3 Plaintiff's second request is hard to follow, but he generally appears to argue that
4 Defendant committed a crime against him in connection with the allegations in this case and asks
5 that this case to be stayed "pursuant to federal criminal felony hate crime charges against
6 Defendant" and for "Court notification of criminal action and representation by the state on
7 behalf of Plaintiff." (ECF No. 53, p. 10) (capitalization omitted).

8 District courts have broad discretion in deciding whether to stay a case. *See Landis v. N.*
9 *Am. Co.*, 299 U.S. 248, 254 (1936) ("[T]he power to stay proceedings is incidental to the power
10 inherent in every court to control the disposition of the causes on its docket with economy of time
11 and effort for itself, for counsel, and for litigants."). The moving party has the burden to show that
12 a stay is appropriate. *Clinton v. Jones*, 520 U.S. 681, 708 (1997). In determining whether to enter
13 a stay, the court must consider the competing interests at stake, including (1) "the possible
14 damage which may result from the granting of a stay," (2) "the hardship or inequity which a party
15 may suffer in being required to go forward," and (3) "the orderly course of justice measured in
16 terms of the simplifying or complicating of issues, proof, and questions of law which could be
17 expected to result from a stay." *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962) (citing
18 *Landis*, 299 U.S. at 254-55).

19 Plaintiff provides nothing to indicate that charges against Defendant have been filed or will
20 be filed. And to the extent that he seeks to initiate criminal charges himself, he cannot do so. *See*
21 *Banuelos v. Gabler*, No. 1:18-CV-00675-LJO-SAB, 2018 WL 2328221, at *3 (E.D. Cal. May 22,
22 2018) ("[U]nless a specific statute provides for a private right of action, courts have found that
23 violations of Title 18 are properly brought by the United States government through criminal
24 proceedings and not by individuals in a civil action."). There being no reason to impose a stay,
25 the Court will not stay this case.

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